

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**
MDL No. 3076
Case No. 1:23-md-03076-KMM

IN RE:

**FTX Cryptocurrency Exchange Collapse
Litigation**

THIS DOCUMENT RELATES TO:

O'Keefe v. Sequoia Capital Operations, LLC,
No. 1:23-cv-20700 (S.D. Fla.)

O'Keefe v. Temasek Holdings (Private) Limited,
No. 1:23-cv-23065 (S.D. Fla.)

Chernyavsky v. Temasek Holdings (Private) Limited,
No. 1:23-cv-22960 (S.D. Fla.)

Cabo v. Temasek Holdings (Private) Limited,
No. 1:23-cv-23212 (S.D. Fla.)

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**VARIOUS INVESTOR DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION TO
LIFT DISCOVERY STAY, ENTER PROTECTIVE ORDER, AND ADOPT PROPOSED
CASE MANAGEMENT SCHEDULE**

The Defendants set forth in the signature block below (collectively, the “Various Investor Defendants”) respectfully submit this response to MDL Plaintiffs’ Motion to Lift Discovery Stay, Enter Protective Order, and Adopt Proposed Case Management Schedule, ECF No. 916 (the “Motion” or the “Mot.”). This response solely addresses the Motion’s improper and premature request that the Court enter a protective order governing all discovery in this MDL proceeding; the Various Investor Defendants take no position on the rest of the Motion, which is not directed to them.

Plaintiffs ostensibly filed the Motion against the “Promoter Defendants,” not the Various Investor Defendants. Yet, the Motion requests that the Court enter a “Uniform Protective Order to govern all discovery in this MDL,” rather than order different protective orders for each “track.” Mot. at 5 (emphasis added). Plaintiffs included their proposed protective order as Exhibit A to the Motion (the “Proposed Protective Order”).

While the Motion requests that the Proposed Protective Order govern all discovery across all tracks in this MDL proceeding, Plaintiffs have not conferred with the Various Investor Defendants about the Proposed Protective Order despite this District’s Local Rules requiring them to do so. The Motion’s Rule 7.1 Certification plainly illustrates that Plaintiffs conferred with the Promoter Defendants (although it is unclear which aspects of the motion the conferral covered), not the Various Investor Defendants or any other group of Defendants. Mot. at 11. Plaintiffs’ belief that the Proposed Protective Order should apply to all discovery in the MDL but that Plaintiffs do not need to confer with the Various Investor Defendants and that the Various Investor Defendants are not permitted to offer revisions to the Proposed Protective Order is wholly improper and plainly violates Local Rule 7.1(a)(2), which states that a movant must confer with “all parties or non-parties who may be affected by the relief sought in the motion...” (emphasis added). Local Rule 7.1(a)(2) further provides that “[f]ailure to comply with the requirements of this Local Rule may be cause for the Court to grant or deny the motion and impose on counsel an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including a reasonable attorney’s fee.” *See also Sierra Equity Grp. v. White Oak Equity Partners, LLC*, 672 F. Supp. 2d 1369, 1370 (S.D. Fla. 2009) (failure to comply with conferral requirement “provides the Court sufficient grounds to deny the Motion without analysis”). The Various Investor Defendants will be affected by the relief sought in the

Motion should discovery against them be permitted at some point, and therefore Plaintiffs violated the Local Rules by failing to confer with the Various Investor Defendants prior to filing the Motion.

Plaintiffs' failure to confer with the Various Investor Defendants is reason enough to deny the portion of the Motion seeking that the Court grant the Proposed Protective Order. Although the Various Investor Defendants believe that a protective order governing the Various Investor Defendants is premature due to the pendency of the Various Investor Defendants' motions to dismiss, at the very least Plaintiffs should be required to confer with the Various Investor Defendants before submitting a proposed protective order governing the Various Investor Defendants.¹

In addition to Plaintiffs' failure to confer with the Various Investor Defendants, the Proposed Protective Order is unacceptable on the merits. The Promoter Defendants have raised multiple concerns with the Proposed Protective Order, which the Various Investor Defendants incorporate by reference. For example, the Various Investor Defendants do not agree that documents or information designated as "Confidential" may be shared with the FTX Estate and its professionals. *See* Proposed Protective Order § 6. The Various Investor Defendants also do not agree to the Proposed Protective Order's vague provision that before filing Confidential Information with the Court, the party "shall make reasonable efforts to provide the producing Party with reasonably sufficient notice under the circumstances to allow the producing Party to move to

¹ The Motion asserts that Magistrate Judge Sanchez has previously ordered a protective order that "various VC Defendants ... have all already operated under..." Mot. at 5 & n.5. Plaintiffs cite ECF No. 438, Mot. at 5, which is not a protective order. Regardless, not all of the Various Investor Defendants have agreed to the other protective orders on the docket ordered by Magistrate Judge Sanchez. And, as explained *infra*, Plaintiffs' Proposed Protective Order contains unacceptable deviations from those prior protective orders.

have the Confidential Information filed under seal...” *Id.* § 9. Because “reasonable efforts” is not defined, that ambiguous standard unnecessarily risks the publication of Confidential Information, the confidentiality of which may be required by foreign law. Instead, the party seeking to file such Confidential Information with the Court should affirmatively move to have the Confidential Information filed under seal.

For these reasons, the Various Investor Defendants respectfully request that the Court deny the portion of the Motion seeking the entrance of the Proposed Protective Order to govern all discovery in the MDL proceeding.

Dated: June 16, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

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/s/ Jason Gottlieb
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